



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

Thrissur Branch of SIRC of ICAI

Issue 5: pages 1-12 E-news letter July 2020

Road

Ahead-Covid

Chairman's Message



Dear professional colleagues

The pandemic Covid 19 continues to spread across the world. However life is limping back

to normalcy as people are ready to work with precautions. So is with our branch as we had a very hectic month of July.

On 1st of July the branch celebrated CA Day. In the morning we had the flag hoisting ceremony with the managing committee members and branch staff at the branch premises at Sakthan Nagar, adhering to the guidelines prescribed by our HO. Also as a commitment to environment protection saplings were planted at the branch premises on the same day.

The CA Day celebration was done in Virtual mode. Prominent play back singer P Jayachandran was the chief guest. Dignitaries from different walks of life participated in the programme. They include very famous Malayalm film director Mr Satyan Anthikkad, MD and CEO of manappuram Finance Ltd Mr V P Nandakumar, CEO of Esaf Small Bank Mr Paul Thomas and Thrissur Rural Police Chief CA R Viswanath IPS. Senior central council member CA Babu Abraham Kallivayalil and immediate past SIRC chairman and our ex officio member CA Jomon K George felicitated the members on the occasion of CA day.

As part of the function we honoured all past chairmen of our branch who are in actual practice by visiting their office and handing over a bouquet in recognition of their service to the branch. We also distributed good quality umbrellas to all ARS members.

The month of July was hectic in terms of CPE events as well. We conducted 7 CPE Virtual CPE Credit programs carrying 14 hours of CPE credit during the month.

The month started with a two hour program on “Charities- latest developments” by the veteran speaker CA

V Ramnath from Coimbatore. This program was attended by more than 150 members. On 11.7.2020 the secretary of SIRC CA Abhishek Murali addressed the branch on Income Tax E Assessment procedure.

We had a series of webinars on “Standards of Auditing” during the month. Very senior faculties from Chennai handled topics. On 16.7.2020, CA Chinnasamy Ganesan from Chennai spoke on “SA 700,701,705 and 706 Audit Conclusion and Reporting”. On 17.7.2020, CA R S Balaji, Chennai handled “ Audit Evidence SA500,501,505 and 570”. We also had a session on 24.7.2020 by CA Bhavani Balasubramaniam on ‘Audit Planning SA 300, SA 315, SA 320 and SA 330’. After that on 28.7.2020,

we also conducted VCM on “Taxation of Cooperative Societies “ by CA TT Shajan. On 29.7.2020, we had a session on Audit of Nidhi Companies” by CA Manikandan CK. Both the above sessions by senior faculties from Thrissur were well attended by members.

Members, during the last three months we had conducted 16 VCMs out of which 7 were handled by members of our branch. So far we are successful in striking a balance between expert faculties from outside and our own member faculties. I wish to continue with the same plan at least in the next couple of months as well. I request members to give their opinion on subjects and/or faculties for the future programs.

Regarding coaching classes, we could commence a new batch for intermediate for May 2021 exam. Online classes for foundation, intermediate and final for the Nov 2020 exam is going on in full swing.

Stay safe

Jai ICAI Jai Hind

CA, Anoop G

Office Bearers

Chairman

CA Anoop G

Vice chairman

CA Aryan K K

Secretary

CA Ajith Kaimal R

Treasurer

CA. Satheesh T G

SICASA Chairman

CA. Anoop Francis

In charge of newsletter

CA Jeen Paul

Past chairperson & Academic coordinator

CA Silpa Ramdas

Inside

Chairman's message-

CA Anoop G

Co-operative societies— taxation and relevant issues-

CA. Shajan T T

Photo Gallery

CO-OPERATIVE SOCIETIES - TAXATION & RELEVANT ISSUES



CA Shajan T T

⇒ TAXATION OF SOCIETIES

DEDUCTION U/S 80P - EXEMPTION FOR
INCOME FROM BANKING OR PROVID-
ING CREDIT FACILITIES TO MEMBERS.

INTEREST ON INVESTMENTS

INCOME FROM MDS

APPLICABILITY OF 269SS, 269T & 269ST

COMPLIANCE OF TDS PROVISIONS

⇒ PRE AMENDMENT SCENARIO

Upto 31-03-2007 - 80P Applicable for all cooper-
ative societies including co-operative
banks.

⇒ POST AMENDMENT:

WEF 01-04-2007, 80P amended by insertion of
sub-section (4)

80P(4) - The provisions of this section shall
not apply in relation to any co-operative
bank other than a Primary Agricultural
Credit Society- PACS or a Primary Co-
operative Agricultural and Rural Develop-
ment Bank.

Hence 80P Still applicable for PACS as well as
other societies providing credit facilities to
its members and which are not a co-
operative bank.

⇒ ISSUE BEGINS - 80P not available to Co-
operative Bank other than PACS

⇒ Interpretation starts -

Department version - For classifying societies
as bank ;

Major loans of Societies are non agricultural -
agricultural loans are meagre.

Accepting deposits and providing loans to
non members.

C-class members are not to be treated as
member.

Accepting deposits - Hence similar to bank.

Using the word Bank in the name of the soci-
ety.

Mutuality not applicable, since dealing with
non members.

Providing locker facilities.

Providing cheque facilities.

⇒ Definition : Banking Regulation Act 1949

Co-operative bank and Primary agricultural
credit society shall have the meanings re-
spectively assigned to them in Part V of
Banking Regulation Act, 1949.

As per Section 5(cciv) of the [Banking regula-
tion Act](#), "Primary Agricultural Credit so-
ciety means".

a co-operative society - the primary object or
principal business of which is to provide
financial accommodation to its members
for agricultural purposes or for purposes
connected with agricultural activities (in-
cluding the marketing of crops); and

the bye laws of which do not permit admis-

sion of any other co-operative society as members.

⇒ **Definition of PACS as per KCS Act**

As amended by KCS Amendment Act 2010-

“ Clause (oaa) `Primary Agricultural Credit Society' means a Service Co-operative Society, a Service Co-operative Bank, a Farmers Service Co-operative Bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities and to provide loans and advances for agricultural purposes, the rate of interest on such loans and advances shall be the rate fixed by the Registrar and having its area of operation confined to a Village, Panchayath or a Municipality:

⇒ **Definition of PACS as per KCS Act 1969**

Provided further that if the above principal object is not fulfilled, such societies shall lose all characteristics of a Primary Agricultural Credit Society as specified in the Act, Rules and Byelaws except the existing staff strength.";

⇒ **BANKING BUSINESS**

As per Section 5(b) of Banking Regulation Act, 1949

Banking means - accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise.

As per Section 5(c) of Banking Regulation Act, 1949

Banking Company" means any company which transacts the business of banking in India.

⇒ **Distinguishing - Co-operative Bank Vs. Co-operative society.**

The distinction of **“Co-operative Society being a Co-operative Bank” & “Co-operative Society other than Co-operative Bank”** is categorically made by ITAT, Bangalore in the case of M/s Shimoga Housing Society LTD Vs. CIT reported in “2015(6) TMI 409”.

	<u>Co-operative Society being a Co-</u>	<u>Co-operative Society other than</u>
1)	Registered under Co-operative So-	Registered only under Co-
2)	The Word “Bank”, “Banker”,	Those words cannot be used by a
3)	RBI is the Regulating authority	Registrar of society is the regulat-
4)	Part V of the Banking Regulation	Part V of the Banking Regulation
5)	Cannot engage in trading	Can engage in trading activities.
6)	Can open SB, Current, OD, CC a/ c, issue Cheque DD, Pay-order, LC, Guarantee, Bill Discounting....	Cannot open SB, Current, OD CC a/c, issue Cheque, DD, pay-order, LC, Guarantee, Bill Discounting...
7)	Can act as a clearing agent for cheque, DD, pay-order, etc.,	Cannot act a clearing agent for cheque, DD, pay-order, etc.,

⇒ TAXATION - 80P

80P (1) Where, in the case of an assessee being a co-operative society, the gross total income includes any income referred to in sub-section (2), there shall be deducted, in accordance with and subject to the provisions of this section, the sums specified in sub-section (2), in computing the total income of the assessee.

⇒ 80P(2)(a)

(2) The sums referred to in sub-section (1) shall be the following, namely:

(a) In the case of a co-operative society engaged in -

(i) Carrying on the business of banking or providing credit facilities to its members, or

(ii) A cottage industry, or

(iii) The marketing of agricultural produce grown by its members, or

(iv) The purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or

(v) The processing, without the aid of power, of the agricultural produce of its members, or

(vi) The collective disposal of the labour of its members, or

(vii) fishing or allied activities, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members, the whole

of the amount of profits and gains of business attributable to any one or more of such activities:

Provided that in the case of a co-operative society falling under sub-clause (vi), or sub-clause (vii), the rules and bye-laws of the society restrict the voting rights to the following classes of its members, namely:

(1) The individuals who contribute their labour or, as the case may be, carry on the fishing or allied activities;

(2) The co-operative credit societies which provide financial assistance to the society;

(3) The State Government;

⇒ 80P(2)(b)

(b) In the case of a co-operative society, being a primary society engaged in supplying milk, oilseeds, fruits or vegetables raised or grown by its members to -

(i) A federal co-operative society, being a society engaged in the business of supplying milk,

oilseeds, fruits, or vegetables, as the case may be; or

(ii) The Government or a local authority; or

(iii) A Government company as defined in Section 617 of the Companies Act, 1956 (1 of 1956), or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public), the whole of the amount of profits and gains of such business;

⇒ **Income from other activities [Section 80P(2)(c)]**

(c) If a co-operative society is engaged in any other activity (either independently or in addition to those specified in clause (a) or clause (b) then the following amount is deductible under Section 80P(2)(c) :

- i) In the case of a consumer co-operative society (i.e., a society for the benefits of consumers): Rs. 1,00,000; and
- ii) In any other case: Rs. 50,000.

⇒ **Interest/ Dividend Income [Section 80P(2)(d)]**

(d) The whole of interest and dividend income derived by a co-operative society from its investments in any other co-operative society is deductible under Section 80P(2)(d)

Deduction under Section 80P(2)(d) would be allowed to assessee after excluding expenditure attributable to earning of eligible income.

[Punjab State Co-operative Milk Producer's Federation Ltd. v Commissioner of Income Tax-II [2011] 336 ITR 495 (PUNJ. & HAR.)

⇒ **80P(2)(f)**

(f) in the case of a co-operative society, not being a housing society or an urban consumers' society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power, where the gross total income does not exceed twenty thousand rupees, the amount of any income by way of interest on securities or

any income from house property chargeable under Section 22.

⇒ **Income of banking business [Section 80P(2)(a)(i)]**

In the case of a co-operative society providing credit facilities to its members, the whole of the amount of profits and gains from such business are deductible. From the assessment year 2007-08, deduction under Section 80P will not be available to any co-operative bank (even Regional Rural Banks will not be eligible for deduction under Section 80P - **Circular No. 6/2010**, dated September 20, 2010). A primary agricultural credit society or a primary co-operative agricultural and rural development bank will continue to claim the benefit of deduction under Section 80P.

⇒ **THE MAVILAYI SERVICE CO-OPERATIVE BANK LTD Vs. CIT (Kerala High Court) (Full Bench)**

S. 80P(4): The AO is not obliged to grant deduction by merely looking at the certificate of registration issued by the competent authority under the Co-op Societies Act. Instead, he has to conduct an enquiry into the factual situation as to the activities of the assessee and arrive at a conclusion whether benefits can be extended or not. Chirakkal 384 ITR 490 (Ker) overruled. Antony Pattukulangara 2012 (3) KHC 726 & Perinthalmanna 363 ITR 268 (Ker) approved. Citizen Co-operative Society 397 ITR 1 (SC) followed).

⇒ **INTEREST ON INVESTMENT**

Income from investment from maintaining statutory reserve

Income from investment from maintaining voluntary reserve

Requirement of fluid resources – Rue 63 of Co-operative societies rule.

100% of matured deposits + 20 % of other deposits

Reserve - Cash and Savings bank balance - 100%

FD - 80%

⇒ INTEREST ON INVESTMENT- CASE

DECISIONS

Cochin Tribunal Decisions:

Ananthapuram Co-op society - 2019 ITL 3616 - **Interest income earned from District co-op Bank eligible under 80P(2)(a)(i)**

Muttom SCB - ITAT , Cochin - ITA 372/ Coch/2010

Erumely Service Cooperative bank - **In favour of assessee**

Kizhathadiyoor service cooperative bank- **in favour of assessee - Interest income eligible under 80P(2)(a)(i)**

Aryad coir fibre mats manufacturing co operative society - **against assessee** - But decided on the basis of Totgar case.

⇒ **Other decisions :**

Karnataka co-operative apex bank (2001) 251 ITR 194 (SC)

[Bihar State Co-op. Bank Ltd. v. CIT](#) (1960) 39 ITR 114 (And)

[CIT v. Bangalore District Co-op. Bank Ltd.](#) (supra)

[Mehsana District Central Co-op. Bank Ltd. v. ITO](#) and [Gujarat State Co-op. Bank Ltd. v. CIT](#) (supra).

Tirupati Campus PH. II Co-op Housing Soc. Maryadit - Pune ITAT - 2019 ITL 4606 - Interest income earned from invest-

ments in Banks is eligible under section 80P(2)(d).

⇒ Against assessee:

Totgar consumer sale credit co-operative society - SC - issue as compared to PACS - Investments are from the sale proceeds.

⇒ MUTUALITY

The alternative reason for disallowance of 80P in the recent assessment orders are , since the society is dealing with non members (Nominal / associate members) , mutuality is missing and hence 80P doesn't apply.

Various court decisions are there to substantiate that nominal/associate members are also members and hence it cannot be say that society is dealing with public. Thus eligible for 80P.

Associate/nominal member is also a member if Provided in the Act : Decisions - Ammapet Primary Agri. Co-op Bank Ltd. (Mad - HC) 2019 ITL 2042- Kombanaipudur Womens Milk Producers Co-op society Ltd- Writ petition - Mad HC

⇒ MDS COMMISSION - CASE DECISIONS

Conducting chit fund amounts to providing credit facilities - CIT v. Kottayam Co-operative Bank Ltd. [1974] 96 ITR 181 (Ker.).

⇒ AUDIT & RETURN FILING

It is mandatory to file return within due date - Then only claim can be made under 80P.

148 notice- Limitation period is 4 years from the end of the assessment year , if escaped income does not exceeds Rs. 1 lakh. Limitation period is 6 years from the end of the assessment year , if escaped income exceeds Rs. 1 lakh.

Tax audit to be conducted, if applicable.

⇒ **Issues in return filing -**

Attaching the balance sheet in the case of online uploading - Dept audit report to be obtained within time.

⇒ **Segregating profit from trading activity**
- Since trading income is taxable.-

Apportionment of establishment, contingent expenses & interest expenses on stock holding and claim expense relating to trading against trading income by regrouping.

⇒ **Adjustment of reserves , donation , disallowances u/s 40a(ia) , depreciation.**

⇒ **The depreciation loss** if claimed can be adjusted against future income - even if in case of delayed filing.

⇒ **40A(3)**

As per **section 40A(3)**, where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs 10000/- disallowance u/s 40A(3) will apply.

⇒ **APPLICABILITY OF 269SS , 269T & 269ST**

Exemption to 269SS , 269T & 269ST only for banks , co-operative bank . Not applicable to PACS or other credit societies.

Deposits and loans from others, transaction in real estate including agriculture land (wef 01-06-2015) amounting to **Rs. 20,000/- or more**, shall not be *accepted* in cash. [Sec.269SS]

Rs. 2 lakhs or more shall not be *accepted* in cash.[Sec.269ST]

Deposits accepted from depositors shall not be *repaid* in cash if the amount is **Rs.20,000/- and more**. [Sec.269T]

Loans availed by the Society shall not be *repaid* in cash if the amount is **Rs.20,000/- and more**. [Sec.269T]

Section 269ST prohibits any person to receive an amount of **Rs.2 lakh** and above in cash:

- (i) In aggregate from a person in a day, or
- (ii) In a single transaction, or
- (iii) In respect of transactions relating to one event or occasion from a person .

One installment of loan repayment shall constitute a **single transaction**. And so if the single loan installment amount is less than Rs.2 lakh, it can be paid in cash. All the installments paid for a loan **shall not be aggregated** for the

⇒ **COMPLIANCE OF TDS PROVISIONS**

Till 31-05-2015 - Interest to members of co-operative societies including Co-operative bank - TDS not required. -

From 01-06-2015 :

“To such income credited or paid by a co-operative society (**Other than co-operative bank**) to a member or to any other co-operative society”

Which means:

TDS on interest is required for any person including members- In case of interest paid by a co-operative bank.

Co-operative society - members deposit is still out of purview of TDS

All other provisions of TDS is applicable to co-operative societies as well.

TDS - 194N

All other TDS provisions will apply to societies.

Applicability of 194N:

As per the present provisions applicability of 194N is questioned by various

societies through writ petition before Kerala High Court, which is pending.

(Presently in some cases Stay granted).

Issues:

80P(4) and 194N - Banking

Majority of Cash transactions of societies are with respect to social security

payment (pension distribution on behalf of government directly to the

beneficiaries in cash.

Applicability of TDS exemption in case of co-operative societies.

As per Circular No. 9 of 2002 dated 11-9-2002 -

Exemption under section 194A(3)(v) is available only to such members:

a) who have joined in application for the registration of co-operative society are admitted to the membership after registration in accordance with the bye-laws and rules.

b) Can participate in voting

c) Is entitled to receive profit

As per court decision -

Circular cannot override the provisions of the Act. Hence Circular No.9 of 2002 is quashed and set aside

The Jalgaon District Central Co-operative Bank Ltd. & Anr. v. Union of India 2004

Tax Pub(DT) 0908 (Bom-HC) : (2004) 265
ITR 0423 : (2003) 184 CTR 0343 : (2004) 134
TAXMAN 0001

OTHER ISSUES

⇒ **GST :**

First condition to fall in ambit of GST is the **aggregate turnover** should be more than **40 lakhs** in previous year and for services 20 lakhs.

Aggregate turnover includes:

Taxable sales , Exempt sales, Export sales, Interstate sales, Sales by agent of principal (amount of taxes not to be included)

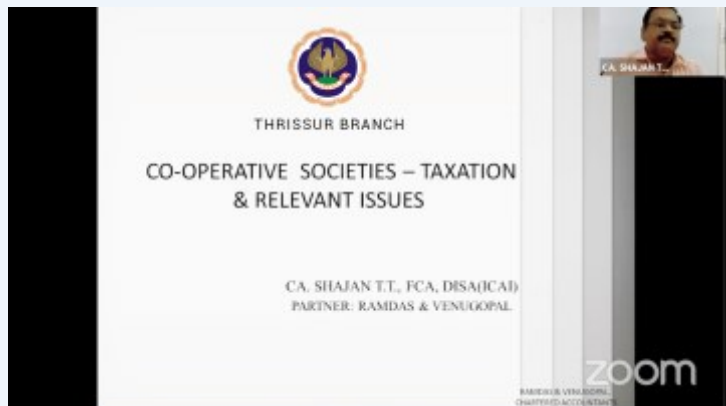
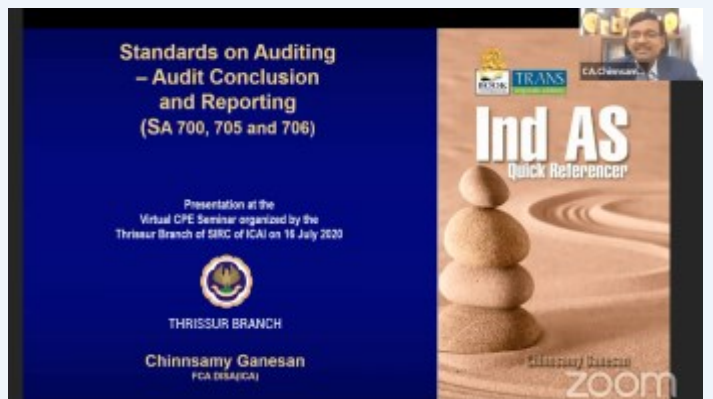
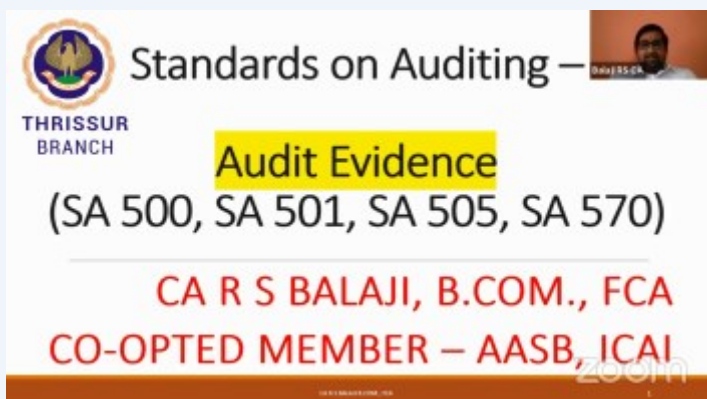
In case of society all income other than interest are coming under GST.

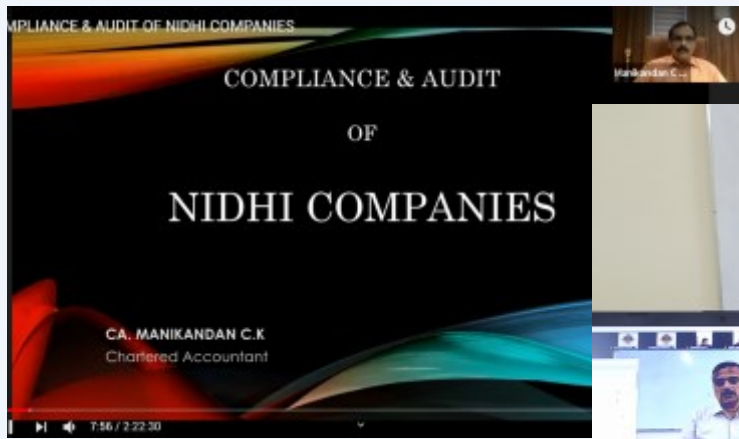
which means , miscellaneous receipts including bank charges , processing fees, inspection fees, folio charges , service charges, legal charges etc , rent , MDS income (which is still disputable).

⇒ **GST AUDIT:**

If the turnover (including exempted turnover- Interest) exceeds 2 crore audit report in 9C to be filed.

PHOTO GALLERY





Career counseling by Chairman CA. Anoop G

Honouring CA Exam Toppers in Thrissur District—Final & inter



CA DAY CELEBRATIONS HELD AT BRANCH PREMISES ON JULY 1ST 2020

